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APPLICATION NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/761,041	01/16/2001	James Phillip O'Reilly	FDN-2238/CONT	4266	
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William J. Davis, Esq.			EXAMINER		
	NAL SPECIALTY PRO	SHERRER, CURTIS EDWARD			
1361 Alps Road Wayne, NJ 074		ART UNIT	PAPER NUMBER		
	., •		1761	<u> </u>	
		DATE MAILED: 06/04/2003			

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner			Application No.		Applicant(s)				
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF this communication. Application the period for reply specified above is less than thing (00) says, a reply within the statutory maintain of thing (00) days will the contentional for the period for reply specified above is less than thing (00) says, a reply within the statutory maintain of thing (00) days will the considered timely. If the period for reply specified above is less than thing (00) says, a reply within the statutory retired will be supplied and the contentional contentions. If the period for reply specified above is less than thing (00) says, a reply within the statutory retired will be considered timely. If the period for reply specified above is less than thing (00) says, a reply within the statutory retired will be considered the communication. If the period for reply specified above is less than thing (00) says, a reply within the statutory retired will be considered the communication. If the period for reply specified above is less than thing (00) says, a reply within the statutory maintained the period of the communication. If the period for reply specified above the specified and sense that the replication is the confidence of the communication. A period for Reply 1 is action is final to condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims Application is placed at 13 is/are pending in the application. 4) Claim(s) 10.12 and 13 is/are pending in the application. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to by the Examiner. Application Papers 9) The specification is objected to the textification requirement. Application Papers 9) The proposed drawing correction filed on is/are via accepted or by objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The proposed draw	Office Action Summary		09/761,041						
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Art Unit: 1761

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10, 12 and 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants have not sufficiently disclosed specificational basis for the phrase "periodically regenerating fresh PVPP." While the specification refers to regenerating PVPP, there is no mention of "fresh PVPP." With regard to the phrase "at least 10 microns," the specification only refers to the PVPP having this size after centrifugation.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 10, and 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for the amended phrase "the main flow" found in the preamble of claim 10.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 10, 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Westermann *et al.* (U.S. Pat. No. 4,166,141)(hereinafter Westermann), alone, or in view of applicant's admissions (instant specification, pages 1-3) for the reasons set forth in the last Office Action.

Response to Arguments

Applicant's arguments filed 01/24/03 have been fully considered but they are not persuasive.

With regards to the art rejections, applicants assert that the claimed process is "conceptually and operationally totally different" from the prior art because the main flow of beer in Westermann is from inlet 4 to outlet 5 and this flow is not subjected to a centrifugatory separation of the PVPP.

Further, applicants state that the prior art has not recognized the advantages of using a centrifuge for "the high volume flow stream." Specifically, Westermann, it is argued, teaches a process whereby the specific gravity of the particles is assumed to be orders of magnitude greater than the beer (much like a catalytic cracking process). Applicants assert that this is not the case

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and, therefore, "large amounts of particles will be carried over into the line 5 by the main flow of the beverage and it is inevitable that the principal mode of separation of those particles from the main flow will be filtration; that is to say, in this respect the Westermann process is the standard prior art process." First, no reference is provided for this teaching. Secondly, it is not clear how this obviates the instant art rejection. If anything, it possibly points towards applicants' asserted process, whereby the treated beer would be processed by separatory means.

Lastly, as to the size and amount removed, these are result effective variables that those in the art would inherently optimize so as to allow for the most economical and efficient process.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis E. Sherrer whose telephone number is 703-308-3847. The examiner can normally be reached on Tuesday-Friday, 8AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3602 for regular communications and 703-305-3602 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Curtis E. Sherrer Primary Examiner

May 30, 2003